

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK----- x
TRACY KING,

Plaintiff,

-v-

CITY OF NEW YORK, DEPARTMENT OF
CORRECTIONS,Defendant.
----- x

: 08 CV 6665 (JSR)

: ORDER

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>2-9-10</u>
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JED S. RAKOFF, U.S.D.J.

On September 23, 2009, the Honorable Douglas F. Eaton, United States Magistrate Judge, issued a Report and Recommendation ("Report") in the above-captioned matter recommending that defendant's motion to dismiss plaintiff's complaint pursuant to Fed. R. Civ. P. 12(b)(6) be converted into a motion for summary judgment and that summary judgment be entered in favor of defendants. On September 24, 2009, Judge Eaton issued a correction to the Report that deleted two erroneous sentences. By letter dated September 30, 2009 and received by the Court on October 5, 2009, plaintiff requested a two-week extension of the October 13, 2009 deadline to file objections to the Report. The Court granted plaintiff's request, and objections were due by October 27, 2009.

Despite the additional time, plaintiff has failed to file any objection to the Report, and, for that reason alone, has waived any right to review by this Court. See Thomas v. Arn, 474 U.S. 140, 147-48 (1985); Mario v. P & C Food Markets, Inc., 313 F.3d 758, 766 (2d

Cir. 2002); Spence v. Superintendent, Great Meadow Corr. Facility, 219 F.3d 162, 174 (2d Cir. 2000). Accordingly, the Court hereby adopts the Report and, for the reasons therein, dismisses the petition with prejudice. Clerk to enter judgment.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
February 5, 2010